

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA  
Norfolk Division

UNITED STATES OF AMERICA

v.

2:07CR215

WILLIAM HERNAN BENITEZ-RIOS

Defendant.

REPORT AND RECOMMENDATION  
CONCERNING GUILTY PLEA

Defendant, by consent, has appeared before the undersigned pursuant to Rule 11, Federal Rules of Criminal Procedure, and referral from a United States District Judge and has entered a guilty plea to reentry as a deported alien subsequent to an aggravated felony conviction, in violation of 8 U.S.C. §§ 1326(a) and (b)(2). On January 14, 2008, defendant appeared before the Court for the purpose of entering his guilty plea. Defendant was represented by appointed counsel, Larry Dash, Esquire.

Defendant's primary language is Spanish, therefore the assistance of an interpreter was required. Defendant acknowledged that he was able to fully comprehend the proceedings through the interpreter.

Defendant admitted that he has used all of the aliases set forth in the indictment; to wit: Santana Cruz, William Herman Benitez Rios, Wilian Benitez, William Benitez, Carlos Benites, William A. Benities, Carlos Benites Rios, and Carlos Benites Santana-Cruz. Defendant was appropriate in appearance, responsive, and competently prepared for the hearing. He answered all questions put to him in clear and concise language, and on those occasions when he had a question, defendant consulted with counsel and the interpreter and then promptly answered.

Defendant was courteous and appropriate in his behavior at all times and clearly understood the seriousness of his position. At the close of the proceeding, defendant was remanded to the custody of the United States Marshal, pending completion of a presentence report.

Defendant is twenty-six years of age and attended school in El Salvador to the sixth grade. There was no evidence that defendant was on drugs, alcohol, or medication which might impair his judgment. He was cooperative throughout the proceeding.

Defendant entered his guilty plea without a plea agreement. The Court is completely satisfied, based upon defendant's responses, that he fully appreciates his position. Furthermore, he acknowledged that the statement of facts prepared in anticipation of his plea accurately reflects the government's evidence, in the event of trial.

After cautioning and examining defendant under oath concerning each of the subjects mentioned in Rule 11, the Court determined that the offense charged is supported by independent facts, establishing each of the essential elements of such offense. Therefore, the Court recommends that the guilty plea be accepted and that defendant be adjudged guilty and have sentence imposed accordingly.

Failure to file written objections to this report and recommendation within ten days from the date of its service shall bar an aggrieved party from attacking such report and recommendation before the assigned United States District Judge. 28 U.S.C. § 636(b)(1)(B).

/s/  
James E. Bradberry  
United States Magistrate Judge

Norfolk, Virginia

January 17, 2008